

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF MISSOURI

In re:)	BANKRUPCTY CASE
)	NO. 20-41865-drd-13
MICHAEL LOUIS ALBANO)	
)	
AND)	
)	
LESLEY ANNE CHAPMAN)	ADVERSARY CASE NO.
)	21-4003-drd
Debtor(s))	
)	
RICHARD V. FINK, STANDING)	
CHAPTER 13 TRUSTEE,)	
Plaintiff)	
)	
vs.)	
)	
CARVANA LLC)	
1930 W. RIO SALADO PKWY)	
TEMPE, AZ 85281)	
)	
CARVANA LLC)	
PO BOX 29018)	
PHOENIX, AZ 85038)	
)	
CARVANA LLC)	
PO BOX 29002)	
PHOENIX, AZ 85038)	
)	
CARVANA LLC)	
c/o CSC-LAWYERS INCORPORATING)	
SERVICE COMPANY)	
221 BOLIVAR ST.)	
JEFFERSON CITY, MO 65101)	
)	
Defendant(s).)	

ORDER

COMES NOW Richard V. Fink, the Standing Chapter 13 Trustee, and Creditor, Carvana LLC, by and through counsel, and hereby stipulate and agree as follows:

- 1) On January 11, 2021, Plaintiff Richard V. Fink (“Trustee”) filed adversary complaint 21-4003-drd against Defendant Carvana LLC (“Carvana”).

- 2) The complaint sought to avoid the transfer by Lesley Anne Chapman (“Debtor”) to Carvana regarding the granting of a security interest in a 2019 Nissan Altima with VIN 1N4BL4CV3KC180628 (“Vehicle”).
- 3) The parties hereto acknowledge that:
 - a. On or about October 23, 2020, Debtor purchased the Vehicle and granted a security interest in the Vehicle to Carvana.
 - b. Debtor filed for relief under Chapter 13 of Title 11 of the United States Code on October 28, 2020.
 - c. Defendant’s security interest in the Vehicle was not perfected as of the petition filing date and was unperfected as of the filing date of this adversary proceeding.
 - d. As Carvana’s security interest was not perfected as of the petition date in accordance with applicable law, it is not enforceable against third parties, including the Trustee, pursuant to 11 U.S.C. §544.
 - e. The Trustee asserts that Carvana’s unperfected security interest in the Vehicle is avoidable and that the property may be preserved for the benefit of estate pursuant to 11 U.S.C. §550 and §551.

IT IS THEREFORE ORDERED:

- 1) Carvana’s lien on the 2019 Nissan Altima with VIN 1N4BL4CV3KC180628 is avoided pursuant to 11 U.S.C. §544 and the property is preserved for the benefit of the bankruptcy estate pursuant to 11 U.S.C. §550 and §551.
- 2) For the purposes of Debtor’s Chapter 13 case, Carvana’s claim 21 shall be treated by the Trustee as a non-priority unsecured claim.
- 3) Upon successful completion of a Chapter 13 plan by Debtor, Carvana will execute and deliver to Debtor a release of lien. If the Debtor converts her case to a Chapter 7 case, Carvana shall release its lien to the Chapter 7 Trustee.
- 4) In the event that Debtor’s Chapter 13 bankruptcy case is dismissed, Carvana’s security interest shall, as provided in 11 U.S.C. §349(b), remain unaffected by the bankruptcy or this Order. Any payments made to Carvana during the pendency of the bankruptcy shall be applied to any debt owed by the Debtor to Carvana, in accordance with the pre-petition agreement between Carvana and the Debtor and applicable law.

IT IS SO ORDERED.

Dated: 2/10/2021

/s/ Dennis R. Dow
UNITED STATES BANKRUPTCY JUDGE

Submitted and Approved by:

/s/ Dana M. Estes

Dana M. Estes, #47540
Staff Attorney
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Richard V. Fink, Trustee
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Approved by:

/s/ Michael P. Gaughan

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